IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No.229 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE K.A.PUJ Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

B.I.F.R. NEW DELHI

Versus

RISHABH INDUSTRIES LTD.

Appearance:

1. COMPANY PETITION No. 229 of 2001
   BOARD OPINION for Petitioner No. 1
   NOTICE NOT RECD BACK for Respondent No. 1
   NOTICE SERVED for Respondent No. 2,5-6
   MR KI SHAH for Respondent No. 3
   MR RAJESH P MANKAD for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 09/03/2005

ORAL JUDGEMENT

1. This petition is based on the opinion of the Board for Industrial and Financial Reconstruction (BIFR) forwarded to this Court on 05-12-2001, under Section 20(1) of the Sick Industrial Companies (Special

Provisions) Act, 1985 (SICA), to the effect that it is just and equitable that M/s. Rishabh Industries Limited should be wound up. The Board further observed in its order dated 15-11-2001 that in view of there being no objection to the winding up of the company from anywhere and the company / promoters not having responded at all to the show cause notice for winding up, the Bench concluded that despite having allowed adequate time and opportunity to the company / promoters and having exhausted other possible alternatives also, no acceptable revival scheme for the company could be worked out enabling it to turn its networth positive within a reasonable time frame, while discharging all its due financial obligations. In the circumstances, the Bench confirmed its earlier, prima facie, opinion that it would be just and equitable in public interest if the sick company, Mr.Rishabh Industries Limited, was wound up under Section 20(1) of the Act.

2. This Court has passed an order of admission on 11-07-2002 and order of advertisement was deferred. However, the Official Liquidator attached to this Court was appointed as provisional liquidator and was directed to take inventory and possession of the assets of the Company.

3. The Court has thereafter passed an order with regard to advertisement of the petition on 11-07-2003 directing the Official Liquidator to get the notice of admission published in Gujarati daily "Jansatta" & "Loksatta" and in English daily "Indian Express" Vadodara edition. The Court has further observed that the expense towards advertisement shall be met by the Official Liquidator from Company Paid Reserve Fund. It appears that despite the aforesaid order, advertisement was not given in the newspapers and hence, this Court has passed further order on 11-01-2005 granting further time to the Official Liquidator and directing him to effect the publication of advertisement as ordered by this Court on 11-07-2003 on or before 20-01-2005 fixing the date of final hearing on 16-02-2005. Publication of advertisement in the Official Gazette was dispensed with.

4. Pursuant to the aforesaid order passed by this Court on 11-01-2005, the Official Liquidator has filed his report dated 17-02-2005. Along with said affidavit, Xerox copies of advertisements were attached.

5. Even after publication of the advertisements, nobody has appeared on behalf of the Company nor any objection was raised against the winding up of the

Company. On the contrary other respondents viz. secured creditors and statutory creditors as well as workers union were served. Mr.K.I.Shah, learned advocate, is appearing for the respondent No.2 - Bank of Baroda, and Mr.Rajesh P. Mankad, learned advocate, is appearing for Gujarat Engineering & General Kamgar Union, Baroda. They have supported the petition for winding up of the respondent - Company and submitted that the Board's opinion should be accepted by this Court.

6. After having heard the learned advocates appearing for the secured creditors as well as the workers union and after going through the orders passed by the BIFR and considering its opinion for winding up of the respondent - Company, the Court is of the view that the Company is required to be wound up. The Company is closed for the last many years. Even before the BIFR, nobody has appeared on behalf of the Company for presentation of any scheme or putting up proposal of the revival of the Company. Before this Court also, nobody has appeared on behalf of the Company. The Court is, therefore, of the opinion that the promoters and/or Board of Directors of the Company are not interested in continuing the business of the respondent - Company. The net worth of the Company is eroded much earlier and there is no possibility of revival of the Company. The financial substratum of the Company has been totally destroyed and the Company has failed to discharge its liability towards the secured, unsecured and statutory creditors. The Company is, therefore, ordered to be wound up and accordingly the order of winding up is passed in the present petition directing the Official Liquidator to work as liquidator of the Company. In pursuance of the earlier order, if an inventory is made and possession of the assets of the Company is taken over by the Official Liquidator, no further order is required to be passed in this regard. If, however, inventory is not made and possession of the assets of the Company is not taken, the Official Liquidator is directed to take the possession of the assets of the Company forthwith and prepare an inventory report and file an appropriate report before this Court as expeditiously as possible.

The petition stands disposed of accordingly.

Sd/-

[K.A.PUJ, J]

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'Bhavesh'